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13
14   UNITED STATES DISTRICT COURT

15   NORTHERN DISTRICT OF CALIFORNIA

16   SAN FRANCISCO DIVISION

17 ORACLE AMERICA, INC.,   Case No. 3:10-cv-03561-WHA

18   Plaintiff,   **DECLARATION OF PATRICK BRADY
                                            IN SUPPORT OF DEFENDANT GOOGLE
19   v.   INC'S MOTION FOR SUMMARY
                                            JUDGMENT AND/OR SUMMARY
20 GOOGLE INC.,   ADJUDICATION RE: GOOGLE'S NON-
                                            LIABILITY UNDER 35 U.S.C. § 271(f)**
21   Defendant.
                                            Hearing Date: October 13, 2011
22   Time of Hearing: 8 a.m.
                                            Judge: Hon. William Alsup
23
                                            Date Comp. Filed: October 27, 2010
24   Trial Date: October 31, 2011

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DECLARATION OF PATRICK BRADY IN SUPPORT OF DEFENDANT GOOGLE INC'S MOTION FOR
SUMMARY JUDGMENT AND/OR SUMMARY ADJUDICATION RE: GOOGLE'S NON-LIABILITY
UNDER 35 U.S.C. § 271(f)
CASE NO. 3:10-cv-03561-WHA

I, Patrick Brady, state:

1.   I have been employed since December 2005 by defendant Google Inc. ("Google"), where I am now Director of the Android Partner Engineering Team (the "Partner Team"). I also am Google's Rule 30(b)(6) designee in this action on selected topics relating to Android, and I was deposed in that capacity earlier this year. I submit this declaration in support of Google's Motion for Summary Judgment and/or Summary Adjudication Re: Google's Non-Liability under 35 U.S.C. § 271(f).

2.   I have knowledge of the facts set forth herein, and if called to testify as a witness thereto could do so competently under oath.

3.   I began supervising the Partner Team in late 2007 and was named its Director earlier this year. The Partner Team is responsible for Android partnerships with mobile handset and tablet-computer manufacturers, silicon vendors, and mobile network operators.

4.   In 2007, the Partner Team developed a process for sharing Android source code—developed and open-sourced by Google and the Open Handset Alliance—with third parties, including device manufacturers. Under this process, Google uploads and makes available Android source code to foreign device manufacturers over the Internet via source-code servers. This is the only process that Google has used to make Android source code available to foreign device manufacturers. I know this because, as Director of the Partner Team, I am responsible for Android partnerships with foreign device manufacturers.

5.   Google has not made Android source code available to foreign device manufacturers on any physical medium. I know this because, as Director of the Partner Team, I am responsible for Android partnerships with foreign device manufacturers.

6.   Also in 2007, the Partner Team developed a process for sharing Android binary code with third parties, including device manufacturers. Under this process, Google uploads Android binary code to servers and makes the binary code available to foreign device manufacturers over the Internet. This is the only process
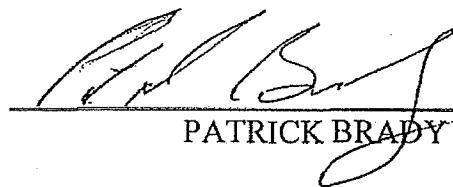
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1 that Google has used to make Android binary code available to foreign device manufacturers. I

2 know this because, as Director of the Partner Team, I am responsible for Android partnerships

3 with foreign device manufacturers.

4   7.   Google has not made Android binary code available to foreign device

5 manufacturers on any physical medium. I know this because, as Director of the Partner Team, I

6 am responsible for Android partnerships with foreign device manufacturers.

7   8.   Foreign device manufacturers obtain Android by downloading the code from the

8 previously described servers. Downloading the code necessarily involves copying it—otherwise

9 the code would disappear from the website after the first download. Thus, foreign device

10 manufacturers have to copy Android code before loading it onto their devices. I know this based

11 on my role as Director of the Partner Team for Android, and based on my resulting knowledge

12 of, and experience with, Android code.

13   9.   Android code does not become functional until it is loaded onto a physical device.

14 I know this based on my role as Director of the Partner Team for Android, and based on my

15 resulting knowledge of, and experience with, Android code.

16   I declare under penalty of perjury that the foregoing is true and correct. Executed on

17 September 8, 2011.

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                  PATRICK BRADY

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